



# Great Falls International Airport Authority

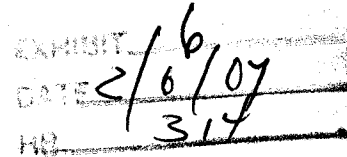
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February 1, 2007

Dear Local Government Committee Members:

Thank you for requesting the Charter document for the Great Falls International Airport Authority. The document that created the Authority was a joint resolution (No. 7451/80) by the City and County. It is attached as exhibit A. Please note that it requires the Airport to conduct its operations in accordance with applicable City and County resolutions. Both City and County ethics policies reference applicability to appointed boards, and both prohibit private interest in the public entity that they serve.

That resolution was modified in 1999 by resolution (No. 9036/99-83) attached as exhibit B. The second resolution expanded the board in order to dilute a quorum of tenants. This came as a joint inquiry in to the Airport Authority by the City and the County in which breeches of Title 2 were suspect. The finding of that inquiry found the Authority business processes to be sound. However, both Commissions expressed concern that tenants serving on the board may inappropriately discern their private business from Airport business on a regular basis.

In the final inquiry report by the City and County, both Commissions requested the development of a process to screen for conflicts and avoid the conflict of interests that initiated the inquiry. The report is attached as exhibit C.

The Authority also developed a conflict-of-interest statement (exhibit D) at that time to be in accordance with City, County, and State ethics policies. That conflict-of-interest statement must be completed and on file with the Authority prior to the member's being seated to assure conformance with City, County, Airport, and State requirements.

As a result of this exercise, the Authority worked with the City to develop a process because they had two imminent appointments. That process was utilized by the City to appoint two of our current board members in 2001.

The Authority then attempted to work with the County to develop a similar process as requested in the inquiry report and subsequent letter from the Cascade County Chairperson (exhibit E).

That brings us to the 2006 appointment and the issue of disqualification. There were twenty-four (24) candidates for that appointment. The candidates' applications are either

provided to the Authority by a third party or given directly to the Authority. The Authority is listed in the County's newspaper advertisement. It has been a collaborative process to assure appropriate discretion is applied as the standard of law would require. The Authority screened all twenty-four (24) applicants but disqualified only one. The County chose to appoint the one disqualified candidate. The Johannes appointment is the first disqualifying appointment under the Airport Authority's conflict-of-interest policy and Title 2 Code of Ethics.

The Airport has continued to approach the County to resolve the issue. The Airport and City Commission subsequently formed a committee to finalize and adopt a board selection process. It is now incorporated into our bylaws (exhibit F). If you read through that process, you will find that it leaves the final selection to the appointing commission. The Authority not only provides ratings of candidates based on current needs but also screens for conflicts.

The County did apply this process to the most recent appointments at the invitation of County Commission Chairman, Lance Olson. There were two (2) open positions, and thirty-three (33) candidates were screened. None of the candidates were tenants or had significant ongoing financial interest in the Authority.

The County's representation of the Authority's attempting to usurp appointing power is incorrect. The Authority did not refuse to seat the appointment, but simply tabled the seating until the issue of disqualifying conflict could be resolved. The standard of law is appropriate discretion to avoid excessive conflict as required by Title 2.

There are a few clarifications to the questions asked of Senator Mangan.

**Do Commissioners have the right to hire and fire?**

**Airport Commissioners** do have the right to hire and fire the Director.

**County Commissioners** do not have the right to hire/fire Airport Commissioners or staff. They have the power to appoint and can only remove for cause. 49 OP Atty. Gen opinion 08 (exhibit G)

**What is the main issue of disqualification the Authority is relying on?**

**The main issue of disqualification for the Authority would be appropriate discretion, such as:**

Felons cannot serve (Authority-held liquor license prohibits it)

Children cannot serve.

Anyone with disqualifying conflicts as described in Title 2 code of ethics cannot serve.

**What area of Title 2 disqualifies the candidate?**

The candidate is a tenant who is also a Vice President of a finance company that regularly and competitively bids multi-million dollar debt and reserve placements.

Per Title 67-11-104 Airport Authorities are defined as public and governmental. As such, the provisions of Title 2-2-105 (1)(2)&(5)

2-2-105 (1) The requirements in this section are intended as rules of conduct, and violations **constitute a breach of the public trust and public duty of office or employment in state or local government.**

2-2-105 (2) Except as provided in subsection (4), a public officer or **public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.**

2-2-105 (5) **A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking.**

Being a tenant and an employee/agent/officer of a financing company that regularly bids major financial investments and debt placements disqualifies the candidate per \*1AG opinions 110 and 2 (exhibit H and I).

The final issue that the committee needs to consider is sensitive, but it is now a matter of public record. The issue is of judges appropriately recusing themselves, a matter that is fittingly in front of our current legislature. This case is currently in the court of Judge Loren Tucker, who resides over Madison County (District 5). Madison County was engaged with D.A. Davidson in pursuing a \$10 million bond election to expand Judge Tucker's courthouse. This bond election was active when the Judge ruled precipitously two times against the Authority. The Authority does not expect adequate adjudication of this issue in a conflicted court. For this reason, the Authority has already acted to take the matter to the Supreme Court.

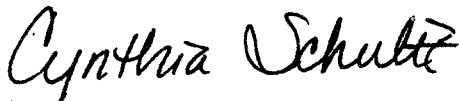
The County has wrongly placed this case in a court whose judge stood to benefit from a bond issue with the candidate in question. When the judge was challenged on his precipitous behavior, the County chose to change the law to avail their position. This demonstrates the length to which the County and the finance company will go to force this disqualified appointment. The Authority's refusal to seat the candidate is not about his being a pilot, nor a minor conflict of interest. It is about millions of dollars of financing that D.A. Davidson would like to control.

It is also public record that the County violated the open meeting law in taking action to sue the Authority with no public notification or meeting. Another citizen group is suing the County for violations of the open meeting law over an extremely contentious zone change action.

In summary, we are all subject to ethical failures, knowingly or not. No public officer or employee is immune. Our experience has been that the offending party is the least aware of the offense. Counties are not immune to this, nor are Cities or Airports.

Please apply appropriate discretion to this matter and defeat this bill. Title 2 is the public's title. One County's attempt to remove language from Title 67 to win a court case would set a dangerous precedent. Airports are not untouchable. The inquiry conducted above is an example of applying appropriate public scrutiny when required. The Airport has learned from that process and has since gone the extra mile by televising each meeting so that past mistakes are not repeated.

Sincerely,

A handwritten signature in black ink that reads "Cynthia Schultz". The script is cursive and fluid, with the first name "Cynthia" written in a larger, more prominent hand than the last name "Schultz".

Cynthia Schultz, PE, AAE  
Airport Director,

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BEFORE THE BOARD OF COUNTY COMMISSIONERS OF CASCADE COUNTY, MONTANA

AND

BEFORE THE BOARD OF CITY COMMISSIONERS OF THE CITY OF GREAT FALLS,  
CASCADE COUNTY, MONTANA

\*\*\*\*\*

IN THE MATTER OF THE CREATION OF A REGIONAL )  
AIRPORT AUTHORITY PURSUANT TO THE PROVISIONS OF) JOINT RESOLUTION  
SECTION 67-11-103, MONTANA CODE ANNOTATED. ) NO. 7451 - 80-1

\*\*\*\*\*

WHEREAS, the County Commissioners of Cascade County, Montana have heretofore adopted by Resolution No. 77-25 a Resolution of Intention to create a Regional Airport Authority for the operation of the Great Falls International Airport, and

WHEREAS, the City Commission of the City of Great Falls has heretofore adopted by Resolution No. 6675 a Municipal Airport Authority for operation of the Great Falls International Airport, and

WHEREAS, Section 67-11-103, Montana Code Annotated sets out the provisions for the creation of a Regional Airport Authority by joint resolution of the City and County, and

WHEREAS, that pursuant to the provision of Section 67-11-103 (4), M.C.A., the County Commissioners of Cascade County, Montana, after due legal notice and publication ten (10) days prior thereto, did on the 6th day of January, 1980, conduct a public hearing on this resolution creating the Regional Airport Authority and that the City Commission of the City of Great Falls, Montana, did likewise, after due and legal notice and publication ten (10) days prior thereto, on the 15th day of January, 1980, conduct a public hearing prior to the adoption of this resolution in conformance with said statutory provision.

WHEREAS, the City Commission of the City of Great Falls and the Board of County Commissioners of Cascade County, Montana, desires to create a Regional Airport Authority;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CASCADE COUNTY, MONTANA, AND THE CITY COMMISSIONERS THE CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA, there be created, pursuant to Section 67-11-103, Montana Code Annotated, a Regional Airport Authority, authorized to exercise all of the powers, duties and functions granted to it in Title 67, Montana Code Annotated, as amended.

1. That such Authority conduct its operations and the operations of the Great Falls International Airport in accordance with the terms and conditions of existing applicable municipal and county resolutions and ordinances and the requirements of Title 67, Chapter 11, Montana Code Annotated, as amended.

2. That the Authority consist of five (5) commissioners to be appointed and hold office for terms of three (3) years each, three (3) commissioners to be appointed by the City Commission of the City of Great Falls, Montana, and two (2) commissioners to be appointed by the County Commissioners of Cascade County, Montana; except that, to ensure an orderly transition each year and to avoid having all terms expire at the same time the terms of the first commissioners appointed will be a staggered basis and the City Commission will appoint one (1) person for one (1) year, one (1) person for two (2) years and one (1) person for three (3) years; and the County Commissioners will appoint one (1) person for two (2) years and one (1) person for three (3) years; that the said Commissioners receive per diem and travel expenses in accordance with Section 2-18-501 through 2-18-503, Montana Code Annotated, as amended, but no other compensation; that the said Commissioners shall serve until the expiration of their terms unless earlier removed by act of the City Commission of the City of Great Falls or the County Commissioners of Cascade County, Montana, whichever body appointed the said Regional Airport Authority Commissioner. That the Authority make periodic reports, at least semi-annually, to the City Commission of the City of Great Falls, Montana and County Commissioners of Cascade County, Montana, concerning the operation and management of the said Great Falls International Airport by said Authority.

3. That this Resolution and the Authority created hereunde

may be modified or enlarged in any manner not inconsistent with the laws of the State of Montana.

DATED this 15th day of January, 1980.

BOARD OF COUNTY COMMISSIONERS  
OF CASCADE COUNTY

L. W. Fassbender  
L. W. Fassbender Chairman

Franklin H. Steyaert  
Franklin H. Steyaert Member

Jack T. Whitaker  
Jack T. Whitaker Member

ATTEST:

L. Lennor  
Clerk and Recorder

CITY COMMISSION OF CITY OF GREAT FALLS,  
CASCADE COUNTY

Mayor  
Mayor

Member

Member

Member

Member

ATTEST:

Kathryn E. Wright  
Acting Clerk



BEFORE THE BOARD OF COUNTY COMMISSIONERS OF CASCADE COUNTY,  
MONTANA, AND THE CITY COMMISSION OF THE CITY OF GREAT FALLS,  
CASCADE COUNTY, MONTANA

IN THE MATTER OF AMENDING JOINT RESOLUTION 7451/80-1 WHICH CREATED  
THE REGIONAL AIRPORT AUTHORITY

City of Great Falls Resolution No. 9036  
Cascade County Resolution No. 99-83

\* \* \* \* \*

WHEREAS, the Board of Commissioners of Cascade County, Montana, and the City Commission of the City of Great Falls, Montana, by joint resolution established a Regional Airport Authority to operate the Great Falls International Airport; and

WHEREAS, the joint resolution allows for modifications and enlargement of the Regional Airport Authority; and

WHEREAS, Section 67-11-103 Montana Code Annotated provides the requirements for creating and amending a Regional Airport Authority; and

WHEREAS, both the Board of Commission of Cascade County and the Great Falls City Commission desire to increase the Regional Airport Authority Board to seven (7) members; and

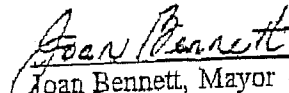
WHEREAS, pursuant to the provision of Section 67-11-103 (4), M.C.A., the Board of Commissioners of Cascade County, Montana, after due legal notice and publication ten (10) days prior thereto, did on the 7<sup>th</sup> day of September, 1999 conduct a public hearing on this resolution and that the City Commission of the City of Great Falls, Montana did likewise, after due and legal notice and publication ten (10) days prior thereto, on the 7<sup>th</sup> day of September, 1999 conduct a public hearing prior to the adoption of this resolution in conformance with said statutory provision.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE GREAT FALLS CITY COMMISSION, CASCADE COUNTY, MONTANA, AND THE BOARD OF COUNTY COMMISSIONERS OF CASCADE COUNTY, MONTANA, that the following amendment to the resolution creating a Regional Airport Authority, authorized to exercise all of the powers, duties and functions granted to it in Title 67, Montana Code annotated, as amended is approved.

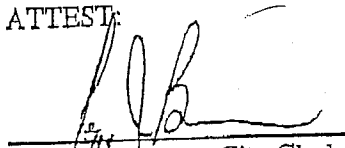
Cynthia 727-6929  
For: Peggy Sauer

1. That such Authority conduct its operations and the operations of the Great Falls International Airport in accordance with the terms and conditions of existing applicable municipal and county resolutions and ordinances and the requirements of Title 67, Chapter 11, Montana Code annotated, as amended.
2. That the Authority consist of seven (7) commissioners to be appointed and hold office for terms of three (3) years each, four (4) commissioners to be appointed by the City Commission of the City of Great Falls, Montana, and three (3) commissioners to be appointed by the Board of County Commission of Cascade County, Montana: that the said commissioners receive per diem and travel expenses but no other compensation; that the said commissioners shall serve until the expiration of their terms unless earlier removed by act of the City Commission of the City of Great Falls or the Board of Commission of Cascade County, whichever body appointed the said Regional Airport Authority Commissioner.
3. That the Authority make periodic reports, at least annually, to the City and County Commissions, concerning the operation and management of the Great Falls International Airport by said Authority.
4. That this Resolution and the Authority created hereunder may be modified or enlarged in any manner not inconsistent with the laws of the State of Montana.

PASSED by the Commission of the City of Great Falls, Montana, on this 7th day of September, 1999.

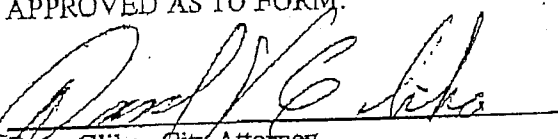
  
Joan Bennett, Mayor

ATTEST:

  
Peggy J. Burne, City Clerk

(SEAL OF CITY)

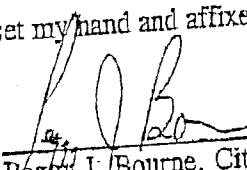
APPROVED AS TO FORM:

  
Dave Gliko, City Attorney

State of Montana )  
County of Cascade : ss.  
City of Great Falls )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution No. 9036 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 7th day of September, 1999, and approved by the Mayor of said City, on the 7th day of September, 1999.

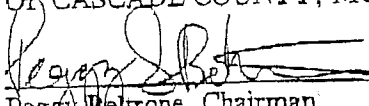
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City, this 7th day of September 1999.

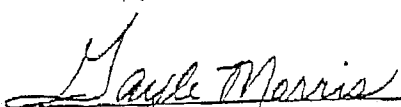
  
\_\_\_\_\_  
Peggy J. Bourne, City Clerk

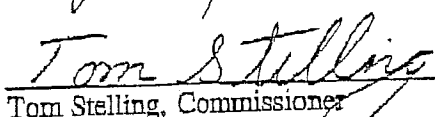
(SEAL OF CITY)

PASSED by the Board of County Commission, Cascade County, Montana, on this 7th day of September, 1999.

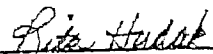
BOARD OF COUNTY COMMISSIONERS  
OF CASCADE COUNTY, MONTANA

  
Peggy Beltrone, Chairman

  
Gayle Morris, Commissioner

  
Tom Stelling, Commissioner

ATTEST:

  
Clerk and Recorder

Deb

# Airport Inquiry Committee Report



Submitted by:

John Gilbert, Chairman  
Ted Mitchell  
Cloyd "Corky" Grove

**RECEIVED**

JUN 14 1999

GT. FALLS INT'L. AIRPORT  
AUTHORITY

On April 13, 1999, the City and County Commissions appointed a three-member board to make an inquiry into the governance and management of the Great Falls Regional Airport Authority. The committee was made up of John Gilbert, (Chairman), Ted Mitchell, and Cloyd "Corky" Grove.

The inquiry was to consider the following questions:

1. Is the Airport Board fulfilling its appropriate role as an effective policy body? Is training and assistance needed that would help it better carry out its duties and responsibilities?
2. Is the relationship between the Airport Board and its staff functional and productive with both groups appropriately observing their respective roles?
3. Is strategic planning or some other process used to determine mission, goals, and objectives to guide the Commission and staff in managing the airport?
4. Have violations of the open meeting law or other occurrences or practices inhibited effective management of the airport?
5. Is staffing adequate, appropriately organized, and given the right resources to effectively manage the airport?
6. Are effective processes in place to listen to and gather input from airport constituencies and the public?
7. Is master planning of the facility for effective long-term management a priority of the Airport Commission?
8. Have financial audits been adequate and have financial controls been evaluated?
9. Are there any changes to the joint resolution establishing the Airport Authority that need to be considered by the City and County Commissions to make it a more effective organization?

## INTRODUCTION

Upon being established the committee decided to look into the above questions from a number of directions. This was done so information could be gathered quickly and effectively. The directions decided upon were to interview staff, have an open meeting for public attendance, review selected financial records, and interview airport Board members. We had also decided that if information was developed that indicated a more in-depth inquiry, one or more of the committee members would follow-up on the information.

Based on early discussions with City and County Commissioners, the committee believed there had to be a significant constituency with unfavorable comments on the airport. We anticipated that we would be inundated with people who had information, primarily unfavorable to the Airport Authority, to provide. However, we found that the opposite was in fact true. We had to actively seek out information and the bulk of the information we gathered was quite favorable.

For example, we attempted to interview the writer of a *Great Falls Tribune* letter to the editor that was critical of the airport. At this point it appears that the author has used a fictitious name and address. Neither this committee nor the *Great Falls Tribune* has been able to identify and locate the person that wrote the letter. We are told that the *Great Falls Tribune* continues to receive anonymous complaints about the airport operations.

We held an evening public hearing for the purpose of receiving comments on the Airport Authority, however the hearing was poorly attended and the bulk of the testimony at that meeting was very favorable. Speakers gave accolades to the Board and new Director and asserted that the airport is operating smoother than it ever has.

As the committee continued its inquiry we did find some answers to the questions that the City and County Commissions asked us to answer. In addition to pursuing the specific items listed by the City and County Commissions, we followed up other matters that came to our attention during the fact-finding process. Following are the questions posed to us with our responses.

1. **Is the Airport Board fulfilling its appropriate role as an effective policy body? Is training and assistance needed that would help it better carry out it's duties and responsibilities?**

The Airport Authority Board appears to be composed of well meaning community volunteers who desire to see a smoothly running and growing airport. We do not believe the Board is achieving its potential as a policy setting body, however. Individual goals and objectives have not translated well into a cohesive group with a shared vision and a clear understanding of a Board member's role. Several employees believe the Airport Board is micro-managing the Airport Authority - some Board members more than others.

From all the information developed, it appears as if some members of the Board feel they represent certain segments of our community more than the community as a whole.

There seems to be some concern among staff and others that the Board composition has led to "general aviation" having particular influence in the decision making process.

Board members do not understand the reporting obligations they have to the City and County Commissions. We believe the expectations of the Commissions have not been formalized and made known to the Board members.

**Suggestions:**

The Airport Authority Board should be expanded to seven voting members. This Board must set policy in a complicated environment and expanding the Board will provide for sufficient overlap of terms. We also suggest that the Commissions consider if the current term for appointees should be lengthened in order to assure experienced Board members at all times.

An ex-officio non-voting Board member position for a representative of the Montana Air National Guard (MANG) should be created.

The City of Great Falls and Cascade County should review their member selection process to insure that protections exist to prevent the possibility of a particular interest group or organization obtaining control of the Board.

The City and County Commissions should prepare a formal document for Board applicants explaining their expectations of appointees and the reporting obligations of the appointees.

The Board and airport management should engage in a formal strategic planning process, resulting in formal goals and objectives. Properly done, this should result in an improved working relationship between all participants. An independent party selected by the City and County Commissions should facilitate this process as soon as the members of the expanded Board are selected. If the Commissions elect not to expand the Board size, this facilitated process should take place immediately.

2. **Is the relationship between the Airport Board and its staff functional and productive with both groups appropriately observing their respective roles?**

As mentioned previously there seems to be some excess management of operational functions by certain board members.



The staff and management seem to be very capable of handling the day to day operation and productivity.

**Suggestions:**

A formal orientation process for new Board members and a clearer definition of the City and County Commissions' expectations should alleviate this problem. The draft orientation document should be put into final form and adopted by the Board.

3. **Is strategic planning or some other process used to determine mission, goals, and objectives to guide the Commission and staff in managing the airport?**

In the past there seems to have been very little or no strategic planning.

**Suggestions:**

The need for a facilitated process has been discussed in the answer to question 1 above.

4. **Have violations of the open meeting law or other occurrences or practices inhibited effective management of the airport?**

The committee believes it is a matter of law and, therefore, outside the scope of our expertise to determine if the open meeting law has been violated. We are only aware of one instance where a meeting was held without public notification and this has been reported in the *Great Falls Tribune*.

Board members have made active use of facsimile and e-mail for exchanges before meetings. It is outside of our expertise to determine how this process may or may not comply with the open meeting law.

We were advised that a recommendation was made several months ago that the Board adopt a set procedure for calling and running meetings, however, the Board decided not to adopt a procedure.

**Suggestions:**

The City and County Commissions should institute a process to be sure all new Board members receive adequate training in the open meeting law. This training should include information on the role of government officials and government officials' responsibilities to the public. This training should also explain the differences between operating a private business and a governmental entity.

The Board should adopt a formal process for calling special meetings.

The City and County Commissions should investigate the appropriate use of electronic media outside of Board meetings and determine what use is permissible and appropriate.

**5. Is staffing adequate, appropriately organized, and given the right resources to effectively manage the airport?**

Currently staffing appears to be adequate, and as reasonably well organized. There is always room for improvement, however. It is evident that there is still a lot of misunderstanding and a lack of trust remaining from prior administrations. The new Director is attempting to overcome this attitude by being as open as possible with the staff. She has an open staff meeting every week, generally on Monday afternoon. During the staff meeting she updates the staff on current work being scheduled, and answers questions and concerns.

This inquiry did find that most employees feel that the only statutes that apply to their position are those issued by the Federal Aviation Administration. They did not seem to be aware that other regulations also apply to the work place.

There are currently three unions representing airport personnel, each with their own perspective of what their employees should be receiving. The last negotiation has also left some less than desirable feelings among some staff members.

Currently no one, including the Director, receives formal work performance evaluations, although we understand there is a plan to start doing evaluations. This is an area where both the Board and the administration need training and improvement.

There also seems to be a thin line of supervision. Most all employees feel that their main supervisor is either the assistant director or the director. It appears that upper management has very tight supervisory control. We cannot determine if this is a remnant of past administrations, because the new director has not yet dealt with this issue, or is indicative of a need for training in personnel management.

The current staff should be able to handle the work requirements in the near future. however, as the airport expands its operations they will also have to add personnel. When this happens it is going to place increased personnel administration demands on the Director and her assistant and they may find themselves dealing more with personnel issues than actual airport operations.

**Suggestions:**

A personnel practices and procedures review should be performed. The most logical

person(s) to perform this review would be the City of Great Falls personnel department. It is very difficult to be knowledgeable of the laws and regulations in all areas and personnel management is one of those areas that requires special expertise that we do not believe is possessed by the current airport management. We hope that one result of such a review will be a plan to deal with personnel matters in the future, including use of City or County resources already in place.

6. **Are effective processes in place to listen to and gather input from airport constituencies and the public?**

Currently there seems to be little available to fulfill this process. The only availability seems to be the Airport Board meetings or a personal contact. This might be one reason that various Board members feel they represent a certain constituency.

**Suggestions:**

During our interviews, various individuals made statements about having information boxes throughout the terminal building for collection of survey information, or having staff approach users with survey information. (Done previously.) This type of information gathering may be adequate for internal use, however, when trying to evaluate an organization on community expectations the community has to be involved. Within the last few years the City Commission has used public television to broadcast their meetings so members of the community have a chance to see what is developing. They also have their meetings at a time when more interested individuals can attend. These alternatives might be explored by the Airport Board to see if more attendance at their meetings is possible.

7. **Is master planning of the facility for effective long-term management a priority of the Airport Commission?**

The current master plan is six years old, and it appears as if it has not been used as much as it should have been. Currently, the administration is taking a new direction in expansion of airport services, and that direction has to be clearly mapped out. All Board members feel that master planning is a must, but they seem to have different ideas about how to approach the issue. The issue of a master plan has been discussed for several months, but nothing has been pursued.

**Suggestions:**

Master planning is going to take time, but the process should be put into motion immediately. This endeavor is something that the director is familiar with and she is the person that is going to have to take the appropriate steps to insure that the process gets completed immediately. This cannot be logically undertaken, however, until the Board has developed goals and objectives.

8. **Have financial audits been adequate and have financial controls been evaluated?**

A reputable accounting firm has audited the Airport Authority and we have no concerns in this regard. We are concerned about the outdated policy used for investing the Airport Authority's cash reserves and the lack of training for those who do the investing. We wish to be absolutely clear that we have no information that suggests any improprieties in past investments and our suggestion is only meant to avoid any possible future problems.

**Suggestions:**

The Board should review its investment policy and update it as needed. Further, the Board should consider the extent to which outside experts should be used to invest these funds instead of airport staff. The City of Great Falls, Cascade County, and the State of Montana are resources that should be considered in this process.

9. **Are there any changes to the joint resolution establishing the Airport Authority that need to be considered by the City and County Commissions to make it a more effective organization?**

Currently the Airport Board consists of 5 members; each serving a 3-year staggered term. The complete text of all resolutions are shown in addendum A.

**Suggestions:**

Our recommendation for Board expansion is contained in our answer to question number 1 above.

The current resolution calls for periodic reports, at least semi-annually to be made to both Commissions, however, this has evidently been overlooked for an extended period of time. The Commissions should devise a schedule that would require this report on a regular basis. An annual report may be more reasonable.

If possible a member of the Commissions should attend Board meetings as often as possible. This will promote a better working relationship between the Board and the respective Commission.

## **OTHER ITEMS**

### **Accounting Personnel Backup**

The Airport Authority has limited staff with which to ensure there is adequate backup for the accounting functions. Both the City of Great Falls and Cascade County have accounting

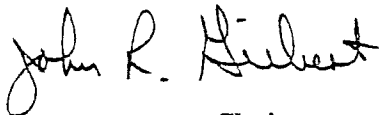
staffs. We recommend that the Airport Authority look to these entities to see what sort of backup or other cooperative arrangements might be available.

**Federal Express Building Bid Letting**

There appeared to be some public concern on the process used to select the contractor for the Federal Express building project. We found nothing in our review that suggested public policy was violated or that sound business practices were not followed.

If the Commissioners have any questions or would like to discuss any of these items in more detail, we would be happy to do so.

**Respectfully Submitted by**

A handwritten signature in dark ink, appearing to read "John R. Gilbert". The signature is written in a cursive, flowing style.

**John R. Gilbert, Chairman**

**Ted Mitchell**

**Cloyd "Corky" Grove**

# Addendum A

## RESOLUTION NO. 7403

A RESOLUTION FOR THE CREATION OF A  
REGIONAL AIRPORT AUTHORITY

- - - -

WHEREAS, the City Commission of the City of Great Falls has heretofore adopted by Resolution No. 6675 a Municipal Airport Authority for operation of the Great Falls International Airport; and,

WHEREAS, Section 67-11-103, Montana Code Annotated provides for the creation of a regional airport authority by joint resolution of a city and county; and,

WHEREAS, the City Commission of the City of Great Falls desires to jointly resolve with the Board of County Commissioners of Cascade County for the creation of a regional airport authority and the execution of an agreement concerning the same;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

1. That there be created pursuant to Section 67-11-103, Montana Code Annotated, a Regional Airport Authority, authorized to exercise all of the powers, duties and functions granted to it in Title 67, Montana Code Annotated, as amended.
2. That such Authority conduct its operations and the operations of the Great Falls International Airport in accordance with the terms and conditions of existing applicable municipal and county resolutions and ordinances and the requirements of Title 67, Chapter 11, Montana Code Annotated, as amended.
3. That the Authority consist of five (5) commissioners to be appointed and hold office for terms of five (5) years each, four commissioners to be appointed by the Great Falls City Commission and one commissioner to be appointed by the Cascade County Commissioners. That commissioners receive per diem and travel expenses in accordance with Sections 2-18-501 through 2-18-503, Montana Code Annotated, as amended, but no other compensation. That commissioners serve until the expiration of their term unless earlier removed by act of the City Commission or County Commission which appointed that commissioner. That the Authority make periodic reports, at least semi-annually, to the City Commission and County Commission concerning the operation and management of the Great Falls International Airport by the said Authority.

4. That an agreement be entered into by and between the City of Great Falls and County of Cascade containing the requirements set forth in Title 67, Chapter 11, Montana Code Annotated, for the joint creation and establishment of a Regional Airport Authority.

5. That this Resolution and the Authority created hereunder may be modified or enlarged in any manner not inconsistent with the laws of the State of Montana.

ACCEPTED on first reading by the City Commission of the City of Great Falls, Montana, this 16th day of October, 1979.

ATTEST:

Kathryn E. Wright  
Clerk of Commission, Acting

(SEAL OF CITY)

Stanley F. Meyer  
Mayor P.R.C.F.E.A.

STATE OF MONTANA )  
County of Cascade :  
City of Great Falls )

I, Kathryn E. Wright, Acting Clerk of Commission of Great Falls, Montana, do hereby certify that the foregoing Resolution No. 7403 was placed on first reading and accepted by the City Commission of the City of Great Falls, Montana, at a meeting thereof held on the 16th day of October, 1979, and that the same was approved by the Mayor of said City on the 16th day of October, 1979.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 16th day of October, 1979.

Kathryn E. Wright  
Acting Clerk of Commission

PASSED AND APPROVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA ON FINAL READING, this 6<sup>th</sup> day of November, 1979.

ATTEST:

Kathryn E. Wright

Stanley F. Meyer  
Mayor



ORIGINAL

STATE OF MONTANA       )  
County of Cascade       :  
City of Great Falls     )

I, Kathryn E. Wright, Acting Clerk of Commission of Great Falls, Montana, do hereby certify that the foregoing Resolution No. 7405 was placed on its final passage and passed and adopted by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 6<sup>th</sup> day of November, 1979, and that the same was approved by the Mayor of said City on the 6<sup>th</sup> day of November, 1979.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 6<sup>th</sup> day of November, 1979.

Kathryn E. Wright  
Acting Clerk of Commission

(SEAL OF CITY)

David H. Hite  
Reviewed as to form: City Attorney

IN THE MATTER OF )  
INTENT TO CREATE A )  
REGIONAL AIRPORT AUTHORITY )

RESOLUTION - 79-25

WHEREAS, the City Commission of the City of Great Falls has heretofore adopted by Resolution No. 6675 a Municipal Airport Authority for operation of the Great Falls International Airport, and

WHEREAS, Section 67-11-103, Montana Code Annotated provides for the creation of a regional airport authority by joint resolution of a city and county, and

WHEREAS, the City Commission of the City of Great Falls desires to jointly resolve with the Board of County Commissioners of Cascade County for the creation of a regional airport authority and the execution of an agreement concerning the same;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CASCADE COUNTY, MONTANA, that a Resolution of Intention be passed to provide the following:

1. That there be created, pursuant to Section 67-11-103, Montana Code Annotated, a Regional Airport Authority, authorized to exercise all of the powers, duties and functions granted to it in Title 67, Montana Code Annotated, as amended.
2. That such Authority conduct its operations and the operations of the Great Falls International Airport in accordance with the terms and conditions of existing applicable municipal and county resolutions and ordinances and the requirements of Title 67, Chapter 11, Montana Code Annotated, as amended.
3. That the Authority consist of five (5) commissioners to be appointed and hold office for terms of five (5) years each, four commissioners to be appointed by the Great Falls City Commission and one commissioner to be appointed by the Cascade County Commissioners. That commissioners receive per diem and travel expenses in accordance with Sections 2-18-501 through 2-18-503, Montana Code Annotated, as amended, but no other compensation. That commissioners serve until the expiration of their terms unless earlier removed by act of the City Commission or County Commission, whichever made the appointments. That the Authority make periodic reports, at least semi-annually

to the City Commission and County Commissioners concerning the operation and management of the Great Falls International Airport by said Authority.

4. That an agreement be entered into by and between the City of Great Falls and the County of Cascade containing the requirements set forth in Title 67, Chapter 11, Montana Code Annotated, for the joint creation and establishment of a Regional Airport Authority.

5. That this Resolution and the Authority created hereunder may be modified or enlarged in any manner not inconsistent with the laws of the State of Montana.

DATED this 30<sup>th</sup> day of October, 1979.

BOARD OF COUNTY COMMISSIONERS  
OF CASCADE COUNTY

L. W. Falsbender Chairman

Franklin H. Steyaert Member

Jack T. Whitaker Member

ATTEST:

J. L. Lennon  
Clerk and Recorder

✓ INDEXED  
RECORDED  
OCT 30 1979  
TIME 4:05 P.M.  
DOCUMENT NO.

J. L. LEMON  
CLERK AND RECORDER  
CASCADE COUNTY, MONTANA

BY J. L. Lennon  
DEPUTY  
noted

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF CASCADE COUNTY, MONTANA  
AND  
BEFORE THE BOARD OF CITY COMMISSIONERS OF THE CITY OF GREAT FALLS,  
CASCADE COUNTY, MONTANA

\*\*\*\*\*

IN THE MATTER OF THE CREATION OF A REGIONAL )  
AIRPORT AUTHORITY PURSUANT TO THE PROVISIONS OF) JOINT RESOLUTION  
SECTION 67-11-103, MONTANA CODE ANNOTATED. ) NO. 7451 + 80-1

\*\*\*\*\*

WHEREAS, the County Commissioners of Cascade County, Montana have heretofore adopted by Resolution No. 77-25 a Resolution of Intention to create a Regional Airport Authority for the operation of the Great Falls International Airport, and

WHEREAS, the City Commission of the City of Great Falls has heretofore adopted by Resolution No. 6675 a Municipal Airport Authority for operation of the Great Falls International Airport, and

WHEREAS, Section 67-11-103, Montana Code Annotated sets out the provisions for the creation of a Regional Airport Authority by joint resolution of the City and County, and

WHEREAS, that pursuant to the provision of Section 67-11-103 (4), M.C.A., the County Commissioners of Cascade County, Montana, after due legal notice and publication ten (10) days prior thereto, did on the 6th day of January, 1980, conduct a public hearing on this resolution creating the Regional Airport Authority and that the City Commission of the City of Great Falls, Montana, did likewise, after due and legal notice and publication ten (10) days prior thereto, on the 15th day of January, 1980, conduct a public hearing prior to the adoption of this resolution in conformance with said statutory provision.

WHEREAS, the City Commission of the City of Great Falls and the Board of County Commissioners of Cascade County, Montana, desires to create a Regional Airport Authority;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CASCADE COUNTY, MONTANA, AND THE CITY COMMISSIONERS OF THE CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA, there be created, pursuant to Section 67-11-103, Montana Code Annotated, a Regional Airport Authority, authorized to exercise all of the powers, duties and functions granted to it in Title 67, Montana Code Annotated, as amended.

1. That such Authority conduct its operations and the operations of the Great Falls International Airport in accordance with the terms and conditions of existing applicable municipal and county resolutions and ordinances and the requirements of Title 67, Chapter 11, Montana Code Annotated, as amended.

2. That the Authority consist of five (5) commissioners to be appointed and hold office for terms of three (3) years each, three (3) commissioners to be appointed by the City Commission of the City of Great Falls, Montana, and two (2) commissioners to be appointed by the County Commissioners of Cascade County, Montana; except that, to ensure an orderly transition each year and to avoid having all terms expire at the same time the terms of the first commissioners appointed will be on a staggered basis and the City Commission will appoint one (1) person for one (1) year, one (1) person for two (2) years and one (1) person for three (3) years; and the County Commissioners will appoint one (1) person for two (2) years and one (1) person for three (3) years; that the said Commissioners receive per diem and travel expenses in accordance with Section 2-18-501 through 2-18-503, Montana Code Annotated, as amended, but no other compensation; that the said Commissioners shall serve until the expiration of their terms unless earlier removed by act of the City Commission of the City of Great Falls or the County Commissioners of Cascade County, Montana, whichever body appointed the said Regional Airport Authority Commissioner. That the Authority make periodic reports, at least semi-annually, to the City Commission of the City of Great Falls, Montana and County Commissioners of Cascade County, Montana, concerning the operation and management of the said Great Falls International Airport by said Authority.

3. That this Resolution and the Authority created hereunder

may be modified or enlarged in any manner not inconsistent with the laws of the State of Montana.

DATED this 15th day of January, 1980.

BOARD OF COUNTY COMMISSIONERS  
OF CASCADE COUNTY

L. W. Fasbender  
L. W. Fasbender Chairman

Franklin H. Steyaert  
Franklin H. Steyaert Member

Jack T. Whitaker  
Jack T. Whitaker Member

ATTEST:

J. L. Lennon  
Clerk and Recorder

CITY COMMISSION OF CITY OF GREAT FALLS,  
CASCADE COUNTY

Mayor B. [Signature]  
Mayor

Member

Member

Member

Member

ATTEST:

Kathryn E. Wright  
Acting Clerk

**GREAT FALLS INTERNATIONAL AIRPORT AUTHORITY  
BOARD OF DIRECTORS AND OFFICERS  
CONFLICT OF INTEREST POLICY**

**WHEREAS, the Great Falls International Airport Authority is a regional airport authority and by law a body corporate and politic, with an appointed board of directors and employed officers who are charged with the responsibility and authority to determine policies and to oversee the Authority's operation and administration, in accordance with applicable City and County resolutions and ordinances and laws of the State of Montana; and**

**WHEREAS, it is the responsibility of each Board Member and Officer to act with the utmost good faith and undivided loyalty toward the Authority when administering the business of the Authority; and**

**WHEREAS, it is the duty of each Board member and Officer to make full disclosure to the Board of Directors of all financial interests, or other interest he or she may have which may in any way conflict with the interests of the Authority; and**

**WHEREAS, it is the duty of the Board of Directors of the Authority to make themselves aware of any possible conflicts of interest on the part of any Board Member or Officer; and**

**WHEREAS, it is therefore deemed to be appropriate to adopt a policy on Conflicts of Interest;**

**NOW, THEREFORE, BE IT RESOLVED, that the following policy on Conflicts of Interest be and the same is adopted:**

**CONFLICT OF INTEREST POLICY**

- 1. It is the duty of each Board Member and Officer of the Great Falls International Airport Authority, hereinafter referred to as GFIAA, to deal fairly with GFIAA and to exercise the utmost good faith and loyalty toward GFIAA. Further, it is the duty of each Board Member and Officer when dealing with GFIAA, to place the interest of GFIAA above the financial, business, or personal interests of the individual.**
- 2. Additionally, each Board Member and Officers shall also be bound by and subject to all applicable requirements, duties, rules and standards of conduct imposed or set forth by Montana Law, specifically included but not limited to Title 2, Chapter 2, Montana Code Ann. (2001), and as such chapter may be hereafter amended by the Legislature of the State of Montana.**
- 3. Upon the adoption of this policy, each Board Member and Officer shall make a full written disclosure of any conflict between his or her duties as hereinabove set forth and his or her self interest; said disclosure shall be made upon the form which shall be made upon the form which shall be provided by GFIAA. A copy of the form to be used is set forth in Exhibit "A" attached hereto and by this reference incorporated herein.**
- 4. Annually, the Airport Director shall send to the Board Member and Officer a copy of this resolution and policy statement, together with an explanation and disclosure**

form as set forth in Paragraph #2 above, which shall be completed and returned to the Airport Director. Thereafter, the Airport Director shall prepare a confidential report which shall summarize the information contained in the disclosure form as submitted and shall submit a report to inform members of the GFIAA Board for his/her information and consideration. All disclosure forms shall be made available to any member of the Board for review by the member upon request. All information contained in the report and disclosure forms shall be for the exclusive confidential use of GFIAA to achieve the purposes set forth in the preamble to this policy.

Upon adoption of this policy, the Airport Director shall send a copy of this resolution and policy statement together with an explanation and disclosure form to all the Board Member and Officer for disposition as set forth above in this paragraph. The Board Member and Officer shall complete and file the disclosure form annually and shall include the information contained therein in said confidential report.

Any new Board Member or Officer shall complete and file a disclosure form immediately upon assumption of his/her responsibilities.

5. If at any time it appears that a Board Member or Officer of GFIAA may have a possible conflict of interest in a matter being considered by the Board of GFIAA, the Board Member or Officer should bring the possible conflict of interest to the attention of the GFIAA Board chair person or the Airport Director. The Board Member or Officer should refrain from the discussing and voting upon any resolution or decision affecting the matter in which he/she has a conflicting interest. The Board should act upon any conflict of interest of the Board Member or Officer in an appropriate manner depending upon the facts and circumstances of the conflict. The minutes of the board meeting should accurately reflect any disclosures by the Board Members prior to any discussion and decision and should reflect any abstention from voting where a conflict of interest is disclosed. Further, the minutes of the board meeting should reflect any discussion and action of the Board concerning any conflict of interest by a Board Member or Officer.
6. It is recognized by GFIAA that members of the Board and Officers may be subject to conflicts of interest upon occasion and that their expertise and service may continue to be vital to the institution when said conflicts are fully disclosed and when their conduct is fair and ethical under the circumstances. In this event, the continued participation of any such individual must reflect that his or her continued participation was fair and ethical.
7. The Airport Director shall insure this Policy Statement is carried out in an appropriate format throughout GFIAA as it affects all Board members and Officers.



**CONFLICT OF INTEREST POLICY  
DISCLOSURE STATEMENT  
(Exhibit A)**

You have been furnished with a copy of the policy statement of Conflict of Interest of the Great Falls International Airport Authority of Great Falls, Montana. In accordance therewith, please complete the following questionnaire:

1. Do you or does any member of your family have any financial, business, or other interest in any outside concern, which does business with Great Falls International Airport Authority (GFIAA) or its tenants? This would include, but not limited to, non-tenant contractors, suppliers, and service agencies the Authority contracts with. If so, please complete the following:

- a. The name of the concern and its type of business:

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- b. Whether the concern supplies goods or services to GFIAA:

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- c. The extent of your financial interest:

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2. Do you or any business in which you have a financial interest, compete in any way with GFIAA? If so, please state:

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- a. The nature of the business \_\_\_\_\_

- b. The name (or names) of the business: \_\_\_\_\_

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- c. Please state any other possible conflicts of interests, which may exist between yourself and GFIAA at the present time. For the purposes of the statement, "conflicts of interest" are situations in which the financial business or other interests of an officer, director, or employee might cause such individual to place such interest of his/her own above those of GFIAA.

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If at any time the information submitted is no longer correct or complete, I agree to notify the Airport Director and submit a corrected disclosure statement.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Position \_\_\_\_\_  
(Board Member, Officer)



COPY

RECEIVED

SEP 23 1999

GT. FALLS INT'L. AIRPORT  
AUTHORITY

September 21, 1999

Regional Airport Authority Board Members  
Great Falls International Airport  
2800 Terminal Drive  
Great Falls, MT 59404-5599

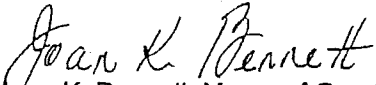
Dear Airport Authority Board Members:

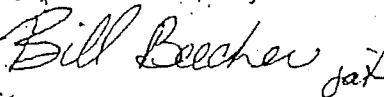
The Airport Inquiry Committee expressed its recommendation that Airport Board Members receive clear direction from the City and County Commissions regarding what is expected of members of the Airport Authority. Toward that goal, the following list of expectations is offered for your consideration. We hope this list helps as you continue your valuable service to this community. Please feel free to add anything we may have overlooked.

1. The Airport Board recognizes its primary function is to set policy for the operation and management of the Great Falls International Airport. The Board also recognizes that to be an effective policy body it must refrain from involvement in day to day operational decisions. Instructions to the staff should be given through the Airport Director. All tenant business discussions should be handled through the Airport Director.
2. The Airport Board is responsible for employing an Airport Director. It is expected that the Board will annually assess the performance and the professional development needs of the Airport Director.
3. The Board is expected to use a strategic planning or similar process, to ensure a cohesive vision. The Board should adopt an annual statement of Goals and Objectives.
4. The Board is expected to observe the open meeting law, conduct its business at meetings that are convenient to public participation and otherwise find ways to involve the community in establishing Airport Policy.
5. The new Board Members should expect and require a formal orientation process with training to include; the Open Meeting Law, the City of Great Falls Ethics Ordinance, The Joint Resolutions on the Regional Airport Authority, Title 67, Chapter 11 Montana Codes Annotated, and how public service differs from the private sector.

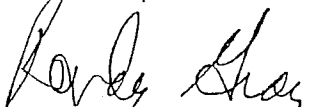
6. It is expected that the Airport Board will ensure an appropriate facility Master Plan is updated on a regular basis determined by the Board, but at least every ten years.
7. The Airport Authority will report at least annually to the City and County Commissions.
8. The Board Members are expected to faithfully attend meetings, work sessions, and training sessions scheduled by the Board. Absences should be infrequent and for good cause.
9. The Board will ensure an annual independent audit is completed of all Airport Authority accounts.
10. It is expected that the Airport Authority Board Members will receive no compensation except for travel expenses and per diem in accordance with Section 2-18-501 Montana Codes Annotated.
11. Board Members should refrain from organizing or participating in voting alliances. This defeats the purpose of public voting.
12. The Board Members are expected to individually and collectively represent the best interests of the community as a whole rather than the interests of particular constituencies.

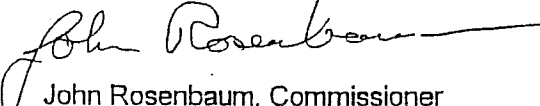
Sincerely,

  
Joan K. Bennett, Mayor of Great Falls

  
Bill Beecher, Commissioner

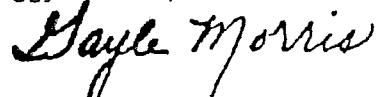
  
Bill Downer, Commissioner

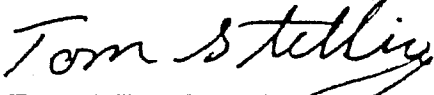
  
Randy Gray, Commissioner

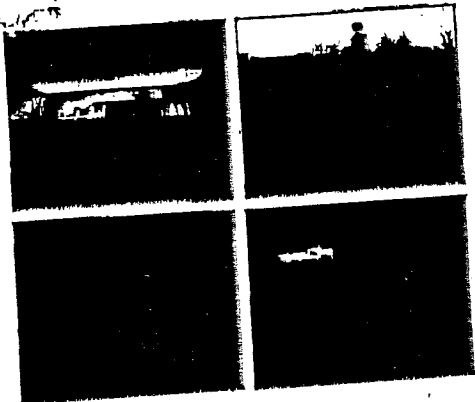
  
John Rosenbaum, Commissioner

Board of County Commissioners  
Of Cascade County, Montana

  
Peggy Beltrone, Chairman

  
Gayle Morris, Commissioner

  
Tom Stelling, Commissioner



# Cascade County Gateway to the North Visit Russell Country

Courthouse Annex, Room 111  
Great Falls, Montana 59401  
Tel. (406) 454-6810  
Fax: (406) 454-6945

July 16, 1999

Airport Inquiry Committee  
John Gilbert, Chairman  
Ted Mitchell  
Cloyd Grove  
P.O. Box 5021  
Great Falls, MT 59403

Dear Sirs:  
In response to your airport inquiry report:

- 1.) We agree that the City-County Airport Board should be expanded to seven members. It has been the recent practice of the County Commission to require that 11 of our appointees reside outside of the city limits. We now want to give priority to having at least some representatives from outside the city limits but there will not be a policy of wholesale exclusion of City residents to county appointment to this board.
- 2.) We are not interested in lengthening the term beyond three (3) years for consistency sake since other City/County Board terms are three years in length.
- 3.) We hold unreserved enthusiasm for the idea that the Montana Air National Guard be invited to nominate a representative to serve as a nonvoting ex-officio board member.
- 4.) We want to enhance our member selection process to ensure that protections exist to prevent the possibility of a particular interest group obtaining control of the board. At the time of the appointments, we ask that the Airport Director give us written direction as to which interest group needs representation.
- 5.) We support the idea of Airport Authority applicants being given a written explanation of County and City Commission expectations. It seems unnecessary for them

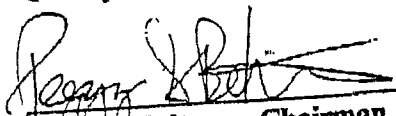
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to have specific reporting obligations.

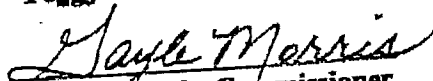
6.) We believe it would be appropriate for an independent party to facilitate a formal strategic planning process for the Airport Authority. We have faith in the Airport staff to select the facilitator.

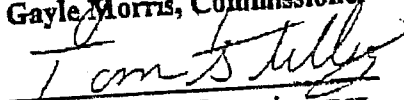
7.) We support the idea of the Airport Authority initiating open meetings law training during new Board members orientation.

8.) We want the Airport Authority Director or Chairman to report to our commission annually at one of our Board meetings. We believe it would be appropriate for a summary of this report to appear in the newspaper.

The Board of Cascade  
County Commissioners

  
Peggy S. Beltrone, Chairman

  
Gayle Morris, Commissioner

  
Tom Stelling, Commissioner

# **BYLAWS OF THE GREAT FALLS INTERNATIONAL AIRPORT AUTHORITY**

## **ARTICLE 1. THE BOARD OF AIRPORT AUTHORITY COMMISSIONERS-LEGAL STATUS AND OPERATION**

### **1.1 Legal Status and Operation.**

The Great Falls International Airport Authority ("the Authority") was created jointly by the City and County Commissions in 1980 pursuant to the provisions of Title 67-11-103, Montana Code Annotated through joint resolution 7451 and 80-1 as a regional airport authority. The Authority is authorized to exercise all of the powers, duties and functions granted to it by Title 67, Montana Code Annotated, as amended. The joint resolution further provides that the Authority conduct its operations and the operations of the Great Falls International Airport in accordance with the terms and conditions of existing applicable municipal and county resolutions and ordinances and the requirements of Title 67, Chapter 11, Montana Code Annotated as amended.

A regional airport authority is a political subdivision of the city, county and State and acts as a separate, independent form of government. The Authority is not a department, division or agency of either of the City or the County. By law, the Great Falls International Airport Authority is a body corporate and politic, the functions of which are public and governmental. The Authority is a "stand alone", autonomous entity governed by its own board which is responsible for its governance and operation.

The Authority provides for the planning, acquisition, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing of the Great Falls International Airport as well as any other legal function directed toward those ends. The Authority is an independent governing body responsible for the business of the Airport. The Authority is governed by its Board of Commissioners and operates through its Airport Director and staff.

The policies of the Board define the organization of the Board and the manner of conducting its official business. The Board's operating policies are those which the Board adopts from time-to-time to facilitate the performance of its responsibilities. Policies and By-Laws shall continue until and unless the Board changes them.

### **1.2 Principal Office**

The office of the Authority is located in the terminal building at 2800 Terminal Drive, Great Falls, Montana 59404.

### **1.3 Financial**

The fiscal year of the Authority shall begin July 1, and close June 30 of each year. All monies of the Authority shall be deposited in an FDIC insured bank. Authority reserves shall be invested per the Authority's investment policy. All Authority accounting will meet all generally accepted governmental accounting standards as verified in the annual audit.

#### **1.4 Claims**

All claims against the Authority shall be approved by the Airport Director and presented to the Authority monthly in financial reports. The Airport Director may execute contracts \$20,000 or less so long as the expenditure is within the limits of the overall budget constraints and in accordance with all applicable statutes.

#### **1.5 Seal**

The seal of the Authority shall be an embossed circular seal consisting of two (2) concentric circles. The inner circle shall contain "OFFICIAL GFIAA SEAL" and the seal shall contain the wording "Great Falls International Airport Authority".

#### **1.6 Integrity**

The Authority holds itself and its associated components accountable for integrity, accuracy, and honesty in all activities that pertain to the Great Falls International Airport. This includes the Authority's expectation that it will receive truthful and accurate information from Authority board members, staff and all other participants in Authority activities. The Authority discourages carelessness with facts and inappropriate or misleading representations in all presentations or communications by, to or among the Authority board and staff.

### **ARTICLE 2. THE BOARD OF COMMISSIONERS**

#### **2.1 Eligibility and Appointment**

Persons with a substantial private interest, personally or in an entity which transacts or seeks to transact business with the Authority, cannot serve on the Authority Board and will be deemed disqualified. The Authority, in cooperation with local government, has adopted an appointment and selection process to facilitate selecting the most qualified candidates. General eligibility criteria for Board appointment is established by the appointing Commission. Appointment of prospective Board members is, in accordance with Montana law, the prerogative of the appointing body, subject to qualification in accordance with Montana law, Authority policies and other applicable requirements. Qualification of an appointment is subject to final confirmation by the Authority Board. Prior to seating an appointed Commissioner, the appointee must complete the conflict of interest disclosure statement, which will be reviewed by the Airport Director and Authority counsel. Upon appointment and acceptance of qualification by the Board, an appointee will be sworn in to the position.

#### **2.2 Taking Office**



A newly appointed Authority Commissioner shall take office as soon as the appointment has been made and certified to the Authority Board by the appointing entity and the newly-appointed Commissioner is determined to be qualified.

### **2.3 Organization and Membership**

The Board is composed of seven (7) members, four (4) of whom are appointed by the City of Great Falls and three (3) of whom are appointed by Cascade County. Board members serve for a term of three (3) years each upon appointment and qualification, or until their successors are appointed and qualify, as established by law. Terms of Commissioners are staggered as provided by law. Vacancies in a Commissioner's position will be filled in accordance with Montana law.

All power of the Authority is vested by Montana law in the Board. The Board's powers and duties include the broad authority to adopt and enforce all necessary rules and policies for the management and governance of the airport.

Official action by Board members must occur at a duly called and legally conducted meeting. "Meeting" is defined as the convening of a quorum of the constituent membership of the Board, whether in person or by means of electronic equipment, to hear, discuss, or act upon a matter over which the Board has supervision, control, jurisdiction, or power.

Authority Board members, as individuals, have no authority over Authority or airport affairs, except as authorized by the Board.

### **2.4 Annual Organization Meeting**

After the appointment and qualification of new Commissioners to the Board, at the first meeting of the Board in January of each year, the Board shall elect from among its members a Chair and a Vice-Chair to serve one-year terms. If a Board member is unable to continue to serve as an officer, a replacement shall be elected immediately by the Board. In the absence of both the Chair and the Vice-Chair, the Board shall appoint a Chair *pro tempore*, who shall perform the functions of the Chair during the latter's absence. The Airport Director, or his or her designate, shall act as Board secretary.

The normal order of business shall be modified for the annual organizational meeting by considering the following matters after the approval of the minutes of the previous meeting:

- 1) Welcome and introduction of newly appointed and qualified Board Members by the current Chair.
- 2) Swearing in of newly appointed and qualified Commissioners.
- 3) Call for nominations for Chair to serve during the ensuing year.
- 4) Election of a Chair.

- 5) Assumption of office by the new Chair.
- 6) Call for nominations for Vice-Chair to serve during the ensuing year.
- 7) Election of a Vice-Chair.

## **2.5 Committees**

Generally, the Authority Board will function as a committee of the whole. Nevertheless, the Board may create Board committees as deemed necessary or useful. All committees created by the Board to serve a clear public and governmental purpose shall comply with the open meeting laws and all other laws applicable to public bodies.

Standing committees of the Board may be created and their purpose defined by a majority of the Board. The Board Chair shall appoint Board members to serve on such committees. Board committees shall be limited to less than one-half (1/2) of the Board.

In determining whether any meeting of the Board or a committee of the Board should be held in compliance with Montana Open laws, the following factors, although not exhaustive or dispositive in nature, should be considered:

- 1) The frequency of the meetings being held;
- 2) Whether the committee is a deliberation or simply to gather facts;
- 3) Whether the deliberations concern a matter of policy rather than merely a ministerial issue;
- 4) Whether the meeting involves administrative functions;
- 5) Whether the committee members have Board authority and experience; and
- 6) The results of the meeting.

## **2.6 Duties of Board Officers**

### **2.6.1 Duties of the Chair**

The duty of the Chair is to ensure the integrity of the Authority and to manage the governance process and the affairs of the Authority in addition to all responsibilities of a member of the Authority. The Chairperson has signatory authority for official Authority business. The duties of the Chair are:

- 1) To preside at all meetings of the Board and conduct orderly meetings in the manner prescribed by law and the Board's policies;

- 2) To make all Board committee appointments;
- 3) To sign all papers and documents as required by law and as authorized by the action of the Board; and
- 4) To close Board meetings as prescribed by Montana law and Board policies.
- 5) To act as the designated person who speaks for the actions of the Authority unless the Authority specifically authorizes others.
- 6) To ensure Authority deliberations are timely, fair, orderly and efficient (limited to time and kept to point).
- 7) To provide leadership through a vision of the organization and foster cooperative relationships between the board and its constituencies.
- 8) To develop Authority knowledge and capabilities through oversight of the information presented to and the continuing education opportunities provided for Authority members.
- 9) To assist in the recruitment and orientation of new members and assure the development of future leadership, with a smooth transition to the next chairperson.
- 10) To represent the Authority effectively to its various constituencies and act as the Authority's primary spokesperson to the public.
- 11) To provide counsel and work closely with the Airport Director, maintain a close interchange of opinions as to Authority process, procedure and deliberations.
- 12) To serve as a liaison between the Authority and the Airport Director on personnel matters.
- 13) To manage the establishment of performance expectations for the Director and the conduct of the evaluation process.
- 14) To uphold the Authority's bylaws, policies and codes of conduct and to intervene with members of the Authority whenever circumstances warrant.

#### **2.6.2 Limitations of the Chair**

The chairperson's authority does not extend to making decisions regarding the means by which the Airport Director carries out Authority directives.

#### **2.6.3 Participation by the Chair**

The Chair is permitted to participate in all Board meetings in a manner equal to all other Board members, including the right to participate in debate and to vote. The Chair may not make a motion, but may second motions.

**2.6.4 The duties of the Vice-Chair are:**

- 1) To preside at all Board meetings in the absence of the Chair
- 2) To perform all of the duties of the Chair in the event of the Chair's absence or disability.

**2.6.5 The duties of the Secretary are:**

- 1) To attend all meetings of the Board, unless excused by the Chair, and keep an accurate journal of its proceedings.
- 2) To retain custody of the records, books, and documents of the Board. In the absence or inability of the Secretary to attend a Board meeting, the Board will designate a person to serve as Secretary for the meeting.
- 3) To keep and maintain, personally or through staff and designates, an accurate and detailed account of all receipts and disbursements made by the Authority.
- 4) To cause to be prepared and published all legal notices required for the conduct of all Board meetings and actions.

**2.7 Duties of the Airport Director**

The duties of the Airport Director are established by contract. A part of the contract duties of the Airport Director are that he or she, personally or through staff or designates, prepares and submits to the Board monthly a financial report of receipts and disbursements of all Authority funds.

**2.8 Duties of Individual Commissioners**

The board has adopted guidelines and board roles as defined in Exhibit A. The authority of any individual Commissioner is limited to participating in actions taken by the Board as a whole when legally in session. Commissioners shall not assume responsibilities of administrators or other staff members. The Board or staff shall not be bound by an action taken or statement made by an individual Commissioner except when such statement or action is pursuant to specific instructions and official action taken by the Board.

Each Commissioner shall review the agenda and any study materials distributed prior to each Board meeting and be prepared to participate in the discussion and decision-making for each agenda item. Each member is obligated to attend Board meetings regularly. Whenever possible, each Commissioner shall give advance notice to the Chair or the Airport Director of the

Commissioner's inability to attend a Board meeting. The Board shall determine the validity of an excuse for absence from a board meeting. The Board shall declare a position vacant after three (3) consecutive unexcused absences from regularly scheduled Board meetings or if the Commissioner has been absent from the State for ninety (90) consecutive days.

Commissioners should refrain from representing board positions to the press unless the board has taken an official position.

### **ARTICLE 3. AUTHORITY BOARD POLICIES**

#### **3.1 Adoption and Amendment of Policies**

Amendments to these Bylaws may be proposed by any member of the Authority and shall be filed with the Secretary. A copy of the proposed amendment shall be furnished to each member for discussion at the next regularly scheduled work session subject to public notice requirements. The proposed amendments shall be voted upon at the board meeting next scheduled immediately thereafter.

All new or amended policies shall become effective upon adoption; unless a specific effective date is provided in the motion for adoption.

### **ARTICLE 4. BOARD MEETINGS AND RECORDS**

#### **4.1 Regular Meetings**

Unless otherwise specified, all meetings will be held in the Authority meeting room at the Great Falls International Airport. Regular board meetings will be held at 1:00 o'clock p.m. on the last Tuesday of every month, except the month of July when no regular meeting will be held and regular work sessions will immediately follow regularly scheduled board meetings.

#### **4.2 Special Meetings**

In the event of an emergency or a need to conduct a meeting more frequently than the next regularly scheduled Board meeting, the Board may meet at such other times upon determination of the Chair or the Director of the need for such a meeting, which may be requested by any Commissioner or the Director, provided lawful notice is given.

#### **4.3 Executive Sessions**

Under Montana law, the Board may hold closed or executive sessions to consider matters of individual privacy. Prior to closing the meeting, the Chair or presiding officer must determine that the demands of individual privacy exceed the merits of public disclosure. The Board may also close a meeting to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the Authority. This exception does not apply if the litigation involves only public bodies or associations as parties.

Prior to closing a meeting for this purpose, the Authority may obtain legal advice on the appropriateness of this action. No formal action shall take place during executive session.

#### **4.4 Records Available to Public**

All Authority records except those restricted by state and federal law shall be available to citizens for inspection at the Authority's office.

A reasonable fee may be charged for any copies requested. Copies will be available within a reasonable amount of time following the request.

A written copy of the Board's minutes shall be available to the general public within five (5) working days following approval of the minutes of the Board. If requested, one (1) free copy shall be provided to local press within five (5) working days following approval by the Board.

#### **4.5 Board Meeting Procedure**

##### **4.5.1 Agenda**

The agenda for any Board meeting shall be prepared by the Director and staff under the Director's supervision, in consultation with the Chair. Items submitted by Board members to the Chair or the Director shall be placed on the agenda. Community members may also suggest inclusions on the agenda. Such suggestions must be received by the Director at least ten (10) days before the Board meeting, unless the time period is waived as determined by the Chair and the Director. Determination to place any suggested item on the agenda shall be made by the Chair and Director.

Individuals who wish to be placed on the Board meeting must also notify the Director, in writing, of the request at least ten (10) days before the Board meeting. The request must include the reason for the appearance. Determination to allow any person requesting placement on the agenda shall be made by the Chair and Director.

Upon consent of the majority of the members present, the order of business at any meeting may be changed. Generally copies of the agenda for the current Board meeting, minutes of the previous Board meeting, and relevant supplementary information will be prepared and distributed to each Board member at least forty-eight (48) hours in advance of the Board meeting, and will be available to any interested person at the Director's office twenty-four (24) hours prior to the Board meeting. An agenda for other types of Board meetings will be prepared if the circumstances necessitate an agenda.

The agenda will normally be divided into the following topical areas:

Call to Order  
Consent Agenda  
Approval of Minutes  
Financial Reports  
Action Items  
Director's Report  
Public Comments  
Board Comments  
Adjournment

#### **4.5.2 Consent Agenda**

To expedite business at a Board meeting, the Board approves the use of a consent agenda, which includes those items considered to be routine in nature. Any item which appears on the consent agenda may be removed by a member of the Board. Any Board member who wishes to remove an item from the consent agenda should to the extent practicable give advance notice in a timely manner to the Director or the Chair. Any items on the consent agenda not removed will be voted on by a single motion. The approved motion will be recorded in the minutes, including a listing of all items appearing on the consent agenda.

#### **4.5.3 Minutes**

The Secretary shall keep written minutes of all open Board meetings, which shall be signed by the Chair and the Secretary. The minutes shall include:

- 1) The date, time and place of the meeting;
- 2) The presiding officer;
- 3) Board members recorded as absent or present;
- 4) A summary of discussion on all matters discussed (including those matters discussed during the "public comment" section), proposed, deliberated, or decided, and a record of any votes taken;
- 5) A detailed statement of all expenditures;
- 6) The purpose of any recess to executive session; and
- 7) Time of adjournment.

When issues are discussed that may require a detailed record, the Board may direct the Secretary to record the discussion verbatim.

Unofficial minutes shall be delivered to Board members in advance of the next regularly scheduled meeting of the Board. Minutes need not be read publicly, provided that members have had an opportunity to review them before approval. A file of permanent minutes of Board meetings shall be maintained in the Authority office.

#### **4.5.4 Quorum**

No business shall be transacted at any meeting of the Board unless a quorum of the members is present. A majority of the full membership of the Board shall constitute a quorum, whether the individuals are present physically or present via a speaker telephone or video conferencing. A majority of the quorum may pass a resolution, a policy or take other action.

#### **4.5.5 Meeting Conduct and Order of Business**

General rules of parliamentary procedure are used for every Board meeting. Robert's Rules of Order may be used as a guide at any meeting. The order of business shall be reflected on the agenda. The use of proxy votes is not to be permitted. Voting rights are reserved to those Commissioners in attendance, participating by speaker phone or video conferencing. Voting shall be by acclamation or show of hands.

##### **4.5.5.1 Open Meeting Law**

Pursuant to MCA 2-3-201-221, The Montana open meeting law requires that all meetings of public or governmental bodies must be open to the public. This includes any committee or subcommittee appointed by a public body. For the purposes of this law, "meeting" means the convening of a quorum of commissioners of a public agency, whether corporal or my means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

Use of electronic mail (e-mail) by members of the Board and Authority staff will conform to the same standards of judgment, propriety and ethics as other forms of Authority and board-related communications. Board members and Authority staff will comply with the following guidelines when using e-mail in the conduct of Board responsibilities:

- 1) The Board should not use e-mail as a substitute for deliberations at Board meetings or for other communications or business properly confined to Board meetings.
- 2) Board members should be aware that e-mail and e-mail attachments received or prepared for use in Board business or containing information relating to Board business may be regarded as public records, which may be inspected by any person upon request, unless otherwise made confidential by law.



- 3) Board members and Authority staff should avoid reference to confidential information about employees, tenants or other matters in e-mail communications, because of the risk of improper disclosure.

#### **4.5.5.2 Public Notice**

Public notice of any meeting and agenda items to be acted must be issued 48 hours prior to the meeting. This notice is issued via email to the local newspaper and TV stations. The agenda is also posted on the public bulletin board next to the gift shop.

#### **4.5.6 Audience Participation**

The Board recognizes the right and value of public comment on issues which come before the board and the importance of involving members of the public in its meetings. The Board also recognizes the public's statutory and constitutional rights to participate in governmental operations. In order to permit fair and orderly expression of such comment, the Board will permit public participation through oral or written comments prior to a final decision on a matter of significant interest to the public. The Chair may control such comment to ensure an orderly progression of the meeting.

Individuals wishing to be heard by the Chair shall first be recognized by the Chair and asked to identify themselves. The person should proceed to comment as briefly as the subject permits. The Chair may interrupt or terminate an individual's statement when appropriate, including when statements are out of order, too lengthy, personally directed, abusive, obscene, or irrelevant. The Board as a whole shall have the final decision in determining the appropriateness of all such rulings. Board meetings are held in public, but are not public meetings. Members of the public are to be recognized and allowed input during the meeting, at the discretion of the Chair.

### **ARTICLE 5. CODE OF ETHICS FOR BOARD MEMBERS**

The Authority has adopted a policy on Board member ethics which is consistent with State law. The Code of Ethics includes rules on conflict of interest.

In general, an Authority Commissioner may not:

- 1) engage in a substantial financial transaction for the Commissioner's private business purpose with a person whom the Commissioner or the Authority inspects or supervises in the course of official duties;
- 2) perform an official act which substantially affects a business or other undertaking in which the Commissioner either has a substantial financial interest, is engaged as counsel, consultant, representative or agent for, or which is a competitor to a business in which the official has a substantial personal interest;

- 3) act as an agent or solicitor in the sale or supply of goods or services to the Authority;
- 4) have a pecuniary interest, directly or indirectly, in any contract made by the Board, when the Commissioner has an interest in the corporation or other entity with which the Authority contracts; or
- 5) be employed in any capacity by the Authority.

## **ARTICLE 6. BOARD-DIRECTOR RELATIONSHIP**

The Authority Board-Director relationship is based on mutual respect for complementary roles. The relationship requires clear communication of expectations regarding the duties and responsibilities of both the Board and Director.

The Board recruits, hires, evaluates, and seeks the recommendations of the Director as the Authority's chief executive officer. The Board adopts policies necessary to provide the legal responsibilities and the general direction for the Authority and to encourage achievement of Authority goals. The Director develops plans, programs, and procedures needed to implement the policies and directs the Authority's day-to-day operations.

The above bylaws adopted by the Great Falls International Airport Authority this 15<sup>th</sup> day of December, 2006.

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Great Falls International Airport  
Chairperson

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Great Falls International Airport  
Secretary



## News Release

ATTORNEY GENERAL MIKE MCGRATH  
STATE OF MONTANA

FOR RELEASE: August 23, 2001

CONTACT: Judy Beck or Lynn Solomon, 444-0582

McGRATH: REMOVAL OF AIRPORT COMMISSIONERS MUST BE 'FOR CAUSE'

HELENA - In an opinion released Thursday, Attorney General Mike McGrath ruled that as long as an airport authority commissioner is exercising powers permitted by law, he or she is not subject to removal from the commission. Only misconduct or neglect of duty would warrant such a removal, McGrath said.

Ravalli County Attorney George Corn requested the opinion.

The opinion cited Montana case law that says appointed officials may be removed only "for cause," and generally, "for cause" implies misconduct, neglect of duty or inefficiency. Also, to ensure that such a removal is not arbitrary, removal may occur only after notice and an opportunity for the commissioner in question to be heard.

As long as a commissioner acted lawfully, then, a disagreement between an airport commissioner and a municipality would not constitute "cause."

McGrath's opinion also addressed the different ways in which a local government may run an airport, including operating the airport itself, creating an advisory board or creating an airport authority. If a local government sought to retain authority over an airport, it might choose a different approach than an airport authority. Once the local government creates an airport authority, however, it relinquishes any statutory power over the operation of the airport.

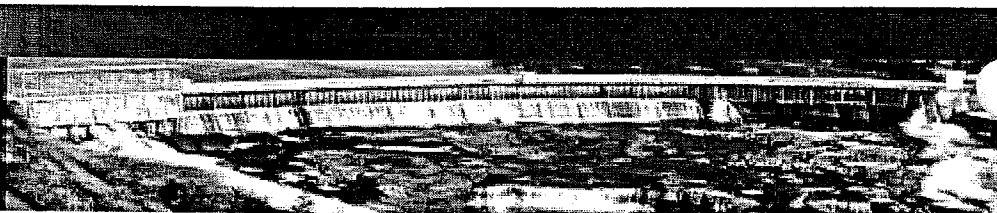
An attorney general's opinion carries the weight of law unless a court overturns it or it is modified by legislative action.

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mt.gov

Department of Justice

Mike McGrath  
Attorney General



## Opinions of the Attorney General

### 9 Op. Att'y Gen. No. 8

REPORTS - Creation of airport authority;

COUNTY COMMISSIONERS - Authority to appoint and/or remove airport commissioners;

EMPLOYEES, PUBLIC - County commissioners' authority to remove airport commissioners;

LOCAL GOVERNMENT - Creation of airport authority;

MUNICIPAL GOVERNMENT - Creation of airport authority;

MONTANA CODE ANNOTATED - Sections 7-1-201, 67-10-202, -301 to -303, 67-11-102.

FIELD:

An airport authority commissioner may only be removed for cause during his or her term of appointment. "For cause" means some type of misconduct or neglect of duty. As long as commissioners are exercising powers authorized by law, they are not subject to removal during their term of office.

August 23, 2004

Mr. George H. Corn  
Missoula County Attorney  
Courthouse Box 5008  
105 Bedford Street  
Hamilton, MT 59840

Dear Mr. Corn:

You have requested my opinion concerning the following question:

Under what circumstances may a local governing body remove a member of an airport authority commission?

The legislative scheme for airport operation gives municipalities the option of running the airport themselves, creating an advisory board, or creating an airport authority. See Mont. Code Ann. §§ 67-10-202, 67-10-301 to -303, 67-11-102. A municipality may exercise any or all powers granted to an airport authority until or unless such powers are conferred upon the airport authority. Mont. Code Ann. § 67-11-102. Municipal airport authorities may be created by resolution by any municipality. Mont. Code Ann. § 67-11-102. For purposes of the above statute, a municipality includes a county. Mont. Code Ann. § 67-1-101(27).

Once created by resolution, a municipal airport authority is governed by not less than five persons appointed as commissioners of the authority. Mont. Code Ann. § 67-11-102. These five commissioners are appointed by the governing body of the municipality. Id.

Although no statute, case, or Attorney General's Opinion specifically addresses the issue of removal of an appointed commissioner from an airport authority, much case law exists on the subject. The common law rule

as been that in the absence of statutory provisions relating to removal of public officers, a public officer can be removed only "for cause, and he is entitled to notice and a hearing in order that he may have an opportunity to be heard." State ex rel. Nagle v. Sullivan, 98 Mont. 425, 431, 40 P.2d 995, 996 (1935) (citations omitted.) Montana case law follows the general rule that if there is a definite term of appointment to a public office, as here, the appointee can only be removed "for cause." Id. Further, the statutes governing general county board management contain this rule. Mont. Code Ann. § 7-1-201(15) (members of the boards listed in Mont. Code Ann. § 7-1-202 may only be removed for cause).

In regard to removal of public officials, the Montana Supreme Court has defined "for cause" as meaning "for reasons which the law and sound public policy recognize as sufficient warrant for removal . . . that is legal cause . . . and not merely a cause which the appointing power, in the exercise of discretion, may deem sufficient." Sullivan, 40 P.2d at 998; State ex rel. Howard v. Ireland, 114 Mont. 488, 138 P.2d 569 (1943); State ex rel. Matson v. O'Hern, 104 Mont. 126, 65 P.2d 610 (1937). In general, "for cause" implies some misconduct, neglect of duty, or inefficiency. See 63C Am. Jur. 2d, Public Officers and Employees §183. The Montana cases cited above involved misconduct (O'Hern) and, in essence, neglect of office (Ireland). To ensure that removal is not arbitrary, when a statute provides for an appointment for a definite term of office, removal may be effected only after notice and an opportunity to be heard. Ireland, 138 P.2d at 573.

This means that "for cause" does not include a discretionary exercise of statutory authority. Merely exercising the powers granted by statute does not constitute cause for removal of an airport commissioner. As long as the exercise of powers is lawful, a disagreement between the municipality and the airport authority over the wisdom of that exercise would not constitute sufficient "cause" for removal. Note that the municipality may exercise its statutory powers until they "have been conferred upon" an airport authority. Mont. Code Ann. § 67-11-102 (emphasis added). This unambiguous language makes it clear that, by creating the airport authority, the municipality has given up its powers in this area. Moreover, if municipalities wish to retain absolute authority over airports, they need only select one of the alternative forms of airport operation rather than creating an airport authority.

THEREFORE, IT IS MY OPINION:

An airport authority commissioner may only be removed for cause during his or her term of appointment. "For cause" means some type of misconduct or neglect of duty. As long as commissioners are exercising powers authorized by law, they are not subject to removal during their term of office.

Very truly yours,

MIKE McGRATH  
Attorney General

mm/pdb/dm



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37 Mont. Op. Att. Gen. 476, 37 Mont. Op. Att. Gen. No. 110, 1978 WL 33524 (Mont.A.G.)

Office of the Attorney General  
State of Montana

\*1 Opinion No. 110  
January 27, 1978

\* **CONFLICT OF INTEREST**--Tenant in a housing authority is ineligible to serve as commissioner of the housing authority.  
SECTION--35-107, R.C.M. 1947.

HELD: A tenant in a housing authority is ineligible to serve as a commissioner of the housing authority.

David V. Gliko, Esq.  
City Attorney  
City of Great Falls  
Great Falls, Montana 59403

Dear Mr. Gliko:

You have requested my opinion concerning whether a tenant in a housing authority may serve as a commissioner of the housing authority. A housing authority is a public body consisting of five commissioners, created pursuant to the Housing Authorities Law, Section 35-101, et. seq., R.C.M. 1947, and delegated powers to build and maintain safe and sanitary dwelling accommodations for persons of low income. The commissioners are appointed by the mayor. Section 35-105, R.C.M. 1947. Your request is governed by Section 35-107, R.C.M. 1947, which states:

No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of any authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

The Montana Supreme Court has not construed this statute in the situation posed in your request. However, two states, Connecticut and Illinois, have interpreted similar statutory language as prohibiting tenants in a housing authority from serving as commissioners of the housing authority. Although decisions of sister states are not binding upon the Montana Supreme Court, the Court has stated that when a Montana statute is similar to one in a sister state, the Supreme Court will give consideration to construction placed on that statute by courts of the sister state. Dept. of Highways v. Hy-Grade Auto Court, 169 Mont. 340, 546 P.2d 1050 (1976).

In Housing Authority of City of New Haven v. Dorsey, 164 Conn. 247, 320 A.2d 820 (1973), cert. denied 414 U.S. 1043 (1973), the Connecticut Supreme Court interpreted a statute identical to Section 35-107, R.C.M. 1947. The problem presented by a tenant of a housing authority serving as a commissioner is best stated in Dorsey at 822:

Within the context of this common-law standard the General Assembly has provided by statute that no commissioner of a housing authority shall acquire any interest, direct or indirect, in any housing project. General Statutes § 8-42. An "interest" has been defined as having a share or concern in some project or affair, as being involved, as liable to be affected or prejudiced, as having self-interest, and as being the opposite of disinterest. (Citation omitted.)

\*2 The interests of a housing authority commissioner would center on the points at which management policies and functions of the authority come into contact with individual tenants. These include the selection and retention of tenants, the determination of rents to be charged, the services and other benefits to be furnished, and the enforcement of the rules governing the conduct and rights

of the tenants. In fixing rents the commissioners must consider the payments on the principal and interest on the bonded indebtedness, the cost of insurance and administrative expenses, the amounts to be set aside in reserve for repair, maintenance and replacements, and vacancy and collection losses. (Citation omitted.)

The task of fixing rent charges is such that a tenant commissioner might be called on to vote to increase his own rent in order to amortize and service the housing authority's debt obligation. If he is reluctant to increase rents which include his own, the housing authority might fail to pay its bonded indebtedness and permit unchecked physical depreciation of the properties. Matters on which the housing authority votes include the setting and the enforcing of its policies as to delinquent rents and the eviction of tenants. As a housing authority commissioner, a tenant would also be required to participate in voting on decisions involving the hiring and firing of housing authority personnel who deal with him and his family from day to day.

Thus, whether or not the tenant as a housing authority commissioner is in fact benefiting himself individually by his vote, his personal interests are always directly or indirectly involved in his vote on the commission. This is not to say that his personal interests are inevitably and on all occasions antagonistic to the interests of the housing authority. The fact, however, that he is a tenant makes it possible for his personal interests to become antagonistic to the faithful discharge of his public duty. (Citation omitted.)

Section 35-109, R.C.M. 1947, presents this same **conflict of interests** by granting housing authority commissioners the same powers discussed in Dorsey.

Support for this rationale is found in Brown v. Kirk, 64 Ill.2d 144, 355 N.E.2d 12 (1976), wherein the Illinois Supreme Court, citing Dorsey, held tenants of a housing authority ineligible to serve as commissioners.

In construing legislative intent, statutes must be read and considered in their entirety and legislative intent may not be gained from wording of any particular section or sentence, but only from consideration of the whole. Vita-Rich Dairy Inc. v. Dept. of Business Regulation,

Mont.

, 553 P.2d

980 (1976). Reading Section 35-107, R.C.M. 1947, in its entirety, the disclosure requirements found in the second sentence only apply to pre-existing interests. Otherwise, the first sentence of Section 35-107, R.C.M. 1947, serves no useful purpose. There would be no bar to a commissioner or employee from acquiring an interest in a housing authority because he could simply disclose this interest after acquisition. Section 35-107, R.C.M. 1947, prohibits any commissioner from acquiring an interest in property included or planned to be included in a housing authority after his appointment, but does not require a commissioner to divest himself of interests acquired prior to his appointment. A commissioner is only required to disclose the latter type of interest.

\*3 The argument could be made that a person who is already a tenant of the housing authority remains eligible for appointment as commissioner. This argument was rejected by Brown. The court stated at p. 14:

However apt this distinction between a newly acquired and pre-existing interest may be in cases where the question is purchase of property to be included in a project, we think that it is not appropriate in the case of a tenant, who retains a continuing contractual relationship with his landlord subject to periodic renewal.

This continuing contractual relationship between landlord and tenant is also prohibited by Section 59-501, R.C.M. 1947, which states:

Members of the legislature, state, county, city, town, or township officers or any deputy or employee thereof, must not be interested in any contract made by them in their official capacity, or by any body, agency, or board of which they are members or employees.

THEREFORE, IT IS MY OPINION:

A tenant in a housing authority is ineligible to serve as a commissioner of the housing authority.

Sincerely,

Mike Greely

Attorney General

37 Mont. Op. Atty. Gen. 476, 37 Mont. Op. Atty. Gen. No. 110, 1978 WL 33524 (Mont.A.G.)

37 Mont. Op. Atty. Gen. 4, 37 Mont. Op. Atty. Gen. No. 2, 1977 WL 35551 (Mont.A.G.)

Office of the Attorney General  
State of Montana

\*1 Opinion No. 2  
February 23, 1977

BOARD OF HOUSING--State contracts, officers and employees interested in;  
PUBLIC CONTRACTS--Board of Housing, **conflict of interest**, officers and employees interested in;  
**CONFLICT OF INTEREST**--Public contracts, officers and employees;  
CONTRACTS--State contracts, **conflict of interest**, what constitutes **interest** in, Article XIII § 4,  
Constitution of Montana, Section 59-501, R.C.M. 1947.

HELD: 1. The Board of Housing members who are respectively the president and majority stockholder in a bank and an officer and minority stockholder in a bank would come within the prohibitions of Section 59-501, R.C.M. 1947, if the Board of Housing contracts or acts officially with the institutions with which they are associated.

2. The actions taken by these members of the Board of Housing do not, as of the date of this opinion, constitute any violation of Section 59-501.12 R.C.M. 1947.

Mr. William A. Groff  
Chairman  
Montana Board of Housing  
Department of Community Affairs  
Capitol Station  
Helena, Montana 59601

Dear Mr. Groff:

You have requested my opinion on the following questions:

1. Does the status of three members of the Board of Housing create the "necessary interest in the contract" which may be entered into between banks and the Board, as to make such contract a violation of Section 59-501, R.C.M. 1947?

2. Have the actions of these members of the Board of Housing to the present time constituted a violation of Section 59-501, R.C.M. 1947?

Your letter reveals that the three Board members in question occupy the following positions, respectively, in lending institutions:

- a. President and majority stockholder of a bank,
- b. Officer and minority stockholder of a bank;
- c. Chief executive officer of a mutual savings and loan association.

The institutions with which these Board members are affiliated are in the position to become "approved lending institutions" by the Board (Rule 22- 3.18(6)-S 1870, MAC). If approval is given by the Board, the institutions may then participate in the home mortgage loan program to low-income families administered by the Board under the Housing Act of 1975, Section 35-501 et seq., R.C.M. 1947.

The 1972 Constitution of Montana mandated (Art. XIII § 4) the Legislature to provide for a code of ethics prohibiting "**conflict** between public duty and private **interest**" for all state and local officers and employees. Section 59-501, R.C.M. 1947, was a partial response to that directive, and provides: Members of the legislature, state, county, city, town, or township officers or any deputy or employee thereof, must not be interested in any contract made by them in their official capacity, or by any body, agency, or board of which they are members or employees. In this section:

(1) The term "be interested" does not include holding a minority interest in a corporation. (2) The term "contract" does not include:

\*2 a. contracts awarded to the lowest responsible bidder based on competitive bidding procedures, or



- b. merchandise sold to the highest bidder at public auctions, or
- c. investments or deposits in financial institutions which are in the business of loaning or receiving money, or
- d. contracts for professional services.

This provision in substantially the same form has been in the laws of Montana since 1895, and, exclusive of subsections (1) and (2), was taken almost verbatim from Section 1090 of the California Government Code. The exclusions in subsection (2) from the term "contract" are not applicable here. Subsection (1) is self explanatory, and excludes a person whose only connection is that of a minority stockholder. It is helpful, therefore, to consider the construction given the remainder of this statute by the California courts.

The interest prohibition statute has been broadly interpreted in California. In the leading case of Stigall v. City of Taft, 375 P.2d 289 (Cal. 1962), the court found that the statute had been violated even where the public official resigned his post prior to the actual execution of a contract with a corporation in which he owned a majority interest. In commenting upon the breadth and intent of the statute the court said (375 P.2d at 291):

The instant statutes are concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the city. Conceding that no fraud or dishonesty is apparent in the instant case, the object of the enactments is to remove or limit the possibility of any personal influence, either directly or indirectly which might bear on an official's decision, as well as to void contracts which are actually obtained through fraud or dishonest conduct. [Emphasis added].

The California court quoted the United States Supreme Court's opinion in U.S. v. Mississippi Valley Co., 364 U.S. 520, 549-50, concerning that Court's ruling upon a federal **conflict of interest** statute:

The statute is thus directed not only at dishonor, but also at conduct that tempts dishonor. This broad proscription embodies a recognition of the fact that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government. To this extent, therefore, the statute is more concerned with what might have happened in a given situation than with what actually happened. It attempts to prevent honest government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation.

Finally, the California Court concluded that the statute seeks to prohibit a person's purporting to "deal at arm's length with himself, and any construction which condones such activity is to be avoided" [Emphasis added, 375 P.2d at 292]. Subsequent cases have similarly construed the statute (People v. Sobel, 115 Cal. Rptr. 532 (1974); People v. Watson, 92 Cal. Rptr. 860 (1971)).

\*3 As indicated by the language from the U.S. Supreme Court quoted above, other courts have likewise broadly construed **conflict of interest** statutes. In People v. Savaino, 335 N.E. 2d 553 (Ill. 1975), for example, the court held that the general rule that penal statutes are to be strictly construed in favor of the accused had no application in face of the legislative intent behind the **conflict of interest** statutes:

This interpretation is consonant with the legislative intent to preclude a public officer from misuse of the powers of his office for his own profit, to prevent influenced decisions, and to effectuate the advancement and protection of the public good, which, in a final analysis, constitutes the basic underlying purpose of the statute.

In Savaino the court found a violation of the Illinois **conflict of interest** statute even though the alleged public contract was never consummated.

The Montana case involving Section 59-501, R.C.M. 1947, Grady v. City of Livingston, 115 Mont. 47 (1943), does not help in the resolution of the present issues. In Grady, taxpayers sued to recover from certain corporations the monies paid by the City for goods and services over a period of years. Various members of the city council were employees or officials of these corporations, and the Court took no issue with the assertion that the sales in question did in fact violate the statute. The crucial factor for the majority was that the City had used or consumed all the purchased goods, and since the contracts were voidable, rather than void, (Section 59-503, R.C.M. 1947) there could be no recovery from the corporation without return of the goods. The conclusion that contracts entered in violation of Section 59-501 are not void, but merely voidable, is a major departure from California law.

Based upon the discussion above, the following points become evident:

1. Statutes prohibiting **conflicts in interest** in public contracts are broadly construed.

2. **Conflict of interest** statutes are intended to remove any official **interest** except remote or minimal **interests**.
3. The object of the statute is to remove any possibility of **conflict of interest**. Any interest which prevents or could tend to prevent impartial and faithful public service is prohibited.
4. There need be no showing of actual fraudulent or dishonest intent on the part of the public official involved.
5. A contract entered in violation of the statute is not void, but merely voidable.
6. If public officials violate the prohibitions of Section 59-501, they are subject to criminal sanction under Section 94-7-401, R.C.M. 1947.

As to the Board members in question, the member who is president and majority stockholder in a bank is clearly covered by Section 59-501. The Board member who is an officer and minority stockholder is also covered by the statute. Although Subsection (1) exempts minority stockholders, the greater interest evidenced by additionally being an officer should bring the member within Section 59-501. It has been held that a stronger case of interest exists when the public official involved is both an officer and a stockholder. See, State v. Robinson, 2 N.W. 2d 183 (N.D. 1942), and 140 A.L.R. 344 and cases cited therein. The case of the Board member who is the "executive officer" of a mutual savings and loan association is not as clear as the two above, because the degree of interest he has in the association is unclear. His situation should be assessed by himself and the Board in light of the thrust of the **conflict of interest** statute to remove and prohibit the possibility of a **conflict**. The language of the Illinois court in People v. Adduci, 108 N.E. 2d 1 (1952), is helpful:

\*4 The interest against which the prohibition is leveled is such an interest as prevents or tends to prevent the public official from giving to the public that impartial and faithful service which he is in duty bound to render and which the public has every right to demand and receive.

I am mindful of the statutory requirement that members of the Board of Housing must be "informed and experienced in housing, economics of finance." Being "informed and experienced," however, falls far short of having a private interest in a public contract as prohibited by Section 59-501, R.C.M. 1947. This dichotomy is emphasized by the fact that, while Board members must be "informed and experienced" in the subject matter with which they deal, they are prohibited by criminal sanction (Section 94-7-401, R.C.M. 1947) from having the **conflict of interest** prohibited by Section 59-501. Your second question is, in effect, whether the actions taken to date by the Board constitute a violation of Section 59-501. A review of the Board's actions show that they have been general in nature and have been the basic steps necessary to implement the Housing Act of 1975. The Board has not dealt individually with any institution associated with the three Board members in question. Rather, the Board has undertaken such actions as adopting form documents and regulations and authorizing the preparation and sale of bonds. These are not such actions as constitute the interest in a contract prohibited by Section 59-501.

THEREFORE, IT IS MY OPINION THAT:

1. The Board of Housing members who are respectively the president and majority stockholder in a bank and an officer and minority stockholder in a bank would come within the prohibitions of Section 59-501, R.C.M. 1947, if the Board of Housing contracts or acts officially with the institutions with which they are associated. The Board must evaluate the situation of the member who is the chief executive officer of a mutual savings and loan association in light of the material set forth in this opinion.
2. The actions taken by these members of the Board of Housing do not, as of the date of this opinion, constitute any violation of Section 59-501, R.C.M. 1947.

Very truly yours,

Mike Greely  
 Attorney General  
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